UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING ADMINISTRATION

FEDERAL SEED LAW ADMINISTRATION

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The War

The war has created a tremendous demand for larger than normal quantities of foods of many kinds and seeds of many kinds to grow such foods. The normal procedure in seed production and distribution has been disturbed. Short supplies of some kinds and advanced prices have been the result. There never has been a time when it was more important than at present for seed laws to be administered in such a manner as to accomplish their purpose. Since 1938 there has been a concentrated interest in Federal and State seed legislation. It seems proper to review what has been accomplished. It seems imperative that this be done now when the planting by the farmer and the gardener of the seeds of the best variety for their purposes and of good quality is of such great importance.

Federal-State Cooperation

You are all familiar with the fact that the Federal Seed Act is administered in a manner to utilize insofar as it is possible the cooperative efforts of State agencies. To make this possible, memoranda of understanding are in effect with 45 States. To approximately 250 State inspectors have been issued identification cards which show that authority has been given to them to inspect seeds within their respective States in the administration of the Federal Seed Act. The results of the inspection by these State officials in the administration of the interstate provisions of the Federal Seed Act are far reaching. Approximately 50 percent of the cases that involved apparent violation of the act and were considered by the Washington office during the past year were first inspected by State employees in their routine activities. These cases were reported to Federal employees located in the regional seed laboratories. They were further investigated, and upon the completion of the investigation were reported to the Washington office. Definite action of one form or another seemed warranted in practically all cases that are uncovered by State inspection.

These cooperative efforts require recognition of a delicate line that separates the jurisdiction and responsibilities of Federal and State seed law enforcement agencies. That which is interstate commerce should be the responsibility of the Federal agency and that which is intrastate commerce should be the responsibility of the State agency. At times it is difficult to determine which is interstate and which is intrastate.

The Federal Seed Act requires that seed shipped in interstate commerce shall be completely and correctly labeled. This applies to the seed at the time it is shipped in interstate commerce. It is not required by the Federal Seed Act that the shipper shall undertake the obligation to see that the seed continues to be correctly labeled indefinitely. If the seed is correctly labeled when shipped in interstate commerce the responsibility of that shipper under the Federal Seed Act has been fulfilled. If it was not fulfilled, it is a matter for the consideration of Federal officials. If it was fulfilled but the seed changed in its condition so that at some later date the statements with respect to the quality are no longer true the obligation to correct the labeling is that of the person residing within the State who is in possession of the seed.

We do not believe it is properly within the jurisdiction of the State to enter into negotiations with the interstate shipper in any instance in which the seed after delivery into the State is found for some reason not to be in compliance with the State law. The negotiations in such circumstances should be undertaken with the person residing within the State. It would, of course, be desirable if the requirements of the Federal Seed Act were such that correctly labeled seed would meet the requirements of the law of the State into which it was shipped. The Federal Seed Act was so worded as to do this insofar as it seemed feasible. To further accomplish this the Department in cooperation with the official seed analysts and other agencies took steps to encourage the adoption by the States of laws consistent with the Federal Seed Act. The response to this on the part of the States has been very encouraging.

Noxious Weeds

The interest of the Federal Government in the State seed laws also arises from the fact that seeds shipped in interstate commerce must comply with the noxious-weed seed requirements of the State into which the seed is shipped. Uniformity in these requirements would, of course, be very helpful to the seed trade as well as to the Federal Government. A number of southeastern

States took a long step in the right direction a year ago when they held a conference to develop uniform noxious-weed seed provisions in their seed laws. We have published the State noxious-weed seed requirements in order that they may be universally known. In a few instances these requirements are not as clear as they should be. There is a legal concept that requirements of law should be clearcut and not readily subject to misinterpretation.

Seed Testing

The Association of Official Seed Analysts has for years combatted in ways at its disposal the lack of uniformity in the results of tests made in different seed laboratories. The situation is often exaggerated, but lack of uniformity to any extent is embarrassing to seed analysts and even more so to persons relying upon seed analysts in the administration of seed laws. In a further effort to encourage greater uniformity in testing the Department has made available for distribution prints of photographs of seedlings taken during germination tests. These prints show seedlings that are interpreted to be normal and those that are interpreted to be abnormal. It is conceded that we may not all be in agreement on the interpretations that were made. It is hoped, however, that they will serve as a basis for reaching closer agreement.

Seed schools in cooperation with State agencies were held in the Federal-State Seed Laboratories for official analysts in 1941 and for commercial analysts in 1942. In these classes it was possible for each person attending to make detailed tests and to compare the procedure followed and the results obtained with those of his fellow analysts.

It has been necessary for the Department to discontinue service testing because the facilities required to do the work were needed in the administration of the Federal Seed Act. We have continued, however, to make service tests for seed analysts in those instances where it appeared the test might contribute toward greater uniformity in interpretation. In such instances we have attempted to get a portion of the original sample, the test of which was being questioned. We have in a few instances found that analysts had destroyed the sample, which action seemed somewhat premature. Storage conditions for the retaining of samples are not available to all analysts; however, it is urged that they retain samples if at all possible for at least a period of a year.

The enactment of the Federal Seed Act and the increased interest in State seed laws have resulted in a tremendous increase in the demand for seed testing. It has seemed that reliable seed tests have not been available at all times to those who were sorely in need of such tests. State laboratories have been overcrowded

and some commercial laboratories have not been equipped to make dependable tests. This situation has been given careful thought even to the extent of considering whether it would be improved if a system were established for licensing all persons who may test seeds for the purpose of determining how such seeds should be labeled when shipped in interstate commerce. It may be preferable as an alternative for the Department again to undertake the making of service tests on a fee basis on a scale that would relieve the present situation.

There seems to have been some misunderstanding with respect to the part played by the tolerances which are required to be recognized in the administration of the Federal Seed Act. It should be remembered that tolerances are not for the purpose of permitting labeling to show higher quality than is actually found by tests. They are designed to cover the unavoidable variation in the results of tests. If the tolerance is used prior to the labeling of the seed, the seedsman in effect deprives himself of this protection.

There have been numerous instances in recent years in which the germination of timothy seed seemed to be much lower than would naturally be expected. The conditions that have contributed toward this may involve the use of combines in harvesting. In any event much of the timothy seed should never have entered seed trade channels.

Many of you know about the experience of farmers who have submitted samples of uncleaned seed to a seed laboratory in order to learn the seeds quality, only to be told that the laboratory makes no tests on uncleaned seed. This situation is not true in all State seed laboratories. It would seem that the farmers should be informed of the quality of the seed in such circumstances. It should not be necessary to make a test of the kind which is usually made for such a test would require too much time. Serious consideration may well be given to whether there should be instituted at the various official seed laboratories, a service to farmers and country shippers of uncleaned seed, that would prevent lots containing noxious-weed seeds and those of low germination from entering seed trade channels. Such a service would no doubt have a tendency to encourage the production of seed of higher quality.

Activities under the Federal Seed Act

During the past year 484 cases of apparent violations of the Federal Seed Act were considered by the Washington office. This is an increase of 38 percent over the previous year. A review of the details involved in these alleged violations in which some action has been taken since July 1, 1941 reveals distribution of the violations somewhat as follows:

False labeling as to percentage of purity	in	29%	of	the cases
False labeling as to germination	"	29%	"	" "
False labeling as to variety	"	15%	"	" "
Incomplete labeling	"	17%	"	" "
Failure to label	"	10%	"	" "
Violation of State noxious-weed requirements	"	17%	"	" "
False advertising	"	8%	"	" "

After giving final consideration to these cases, definite action was taken in the following manner:

> 22 seizures were recommended; 36 persons were advised that prosecution was contemplated and were offered an opportunity to express their views in the case; prosecutions were recommended in 26 instances; warnings were issued in 235 cases; and no action seemed warranted in 298 cases. The circumstances in the 20 cases that were terminated in court during the last year will be published soon.

In the investigation of some of these cases it has seemed obvious that the lot of seed had not been bulked to uniform quality. This results in the obtaining of samples that are not truly representative of the lot. It also offers a challenge to inspectors of seeds as they attempt to obtain a representative sample.

It is also obvious that false labeling as to noxious-weed seeds frequently occurred because the label was based on the usual pure seed determination and not a noxious-weed seed examination. Persons who label seed should be urged to take the precaution of obtaining the results of a noxious-weed seed examination, and seed analysts should be urged to be sure the report of a pure seed test is so worded as to make it clear that a noxious-weed seed examination was not made if this is a fact.

During the past year approximately 1,000 samples of seed were tested by the Department to determine their variety. These were tests in addition to ordinary pure seed determinations. They involved fluorescence tests for ryegrass, cold resistance tests on alfalfa, and greenhouse and field plantings. It seems essential as a part of the war effort to increase the testing for variety in order that there may be a higher degree of accuracy in the labeling of seed. We have found it necessary to seek the cooperation of agronomists in making these tests since we cannot hope to be

familiar with the characteristics of the growing plants of all varieties of the many kinds of seeds. We anticipate that in time all agricultural seeds will be required to be labeled as to variety or with a statement that the variety is not known. We also anticipate that the use of new variety names will be permitted only after the Government has had an opportunity to determine whether a new variety name is warranted.

In the administration of the act we have encountered shipments in interstate commerce of grain that was desired for planting purposes but which was ostensibly shipped for other than seeding purposes. In determining whether such shipments were in fact for seeding purposes and therefore subject to the labeling requirements under the seed act, it has been interpreted that the nature of the order or the inquiry on the part of the buyer shall be the deciding factor. This is the interpretation even though the shipper of the seed represents it to be for other than seeding purposes. A similar interpretation is made in determining whether a shipment is "for processing."

There has been much criticism of the provisions of the Federal Seed Act that require a label to be attached to each bag of seed even though the bags are shipped in carload lots and are to be relabeled after the shipment in interstate commerce has been completed. It seems that an amendment to the act must be made in order to relieve the shipper of this requirement. We feel that there would be no difficulty, however, in administering a provision that would exempt the shipper from the labeling of each and every bag in those circumstances in which the seed is to be relabeled and permission of the consignee is obtained.

It will be necessary to consider amendments to the regulations under the Federal Seed Act at an early date. It would seem desirable at that time to consider adding within the definition of agricultural seeds the names of those kinds that have in recent years entered seed trade channels but that have not been added to the definition of agricultural seeds because methods of testing were not well developed. The Department would welcome the recommendation of this Association as to the kinds of seeds that should be added and the methods by which such seeds may be tested to determine their purity and germination. We would likewise welcome any other suggestions. An example is the suggestion received that the germination standard for watercress be raised above the present standard of 25 percent.

In a memorandum to State seed officials in January 1942 I indicated the need for extraordinary efforts in seed control. It was stated that the present cooperative arrangements between the United States Department of Agriculture and State seed officials placed the State inspector figuratively speaking on the "firing line." We must not be quibbling over technicalities. Instead, our energies

should be devoted to forceful administration of items that are of practical significance. We should not lead the seed buyer by his hand in order that he may be properly protected, for he must learn to make use himself of the facilities that are for his protection. We are impressed with recent efforts in some States to teach the consumer of seed how to interpret statements that appear on labels. We should urge the buyer to "beware" and the seller to "be fair."